

UNITED STATES DISTRICT COURT

District of

Delaware

UNITED STATES OF AMERICA

V.

Timothy McBride

Defendant

ORDER OF DETENTION PENDING TRIAL

Case CR 06-30-3-KAJ.

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I—Findings of Fact

- (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a federal offense state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed that is a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
 an offense for which the maximum sentence is life imprisonment or death.
 an offense for which a maximum term of imprisonment of ten years or more is prescribed in _____*
- (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- (3) A period of not more than five years has elapsed since the date of conviction release of the defendant from imprisonment for the offense described in finding (1).
- (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

- X (1) There is probable cause to believe that the defendant has committed an offense
 for which a maximum term of imprisonment of ten years or more is prescribed in 21 USC §841
 under 18 U.S.C. § 924(c).
- (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings (B)

- (1) There is a serious risk that the defendant will not appear.
- (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Part II—Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by X clear and convincing evidence a preponderance of the evidence: Although defendant would not be interviewed by Pretrial trial Services, information was provided during the detention hearing regarding defendant's background. Defendant is charged with two serious drug related offenses. The evidence against defendant is strong particularly for maintaining property for drug related activity. The evidence shows that defendant had to know that his co-defendants was cooking crack in his kitchen. At the time of his arrest, defendant was found in his home, crack was being prepared in his kitchen and both of his co-defendants (who have significant criminal histories) were in the property. Evidence also supports the conspiracy charge, since it appears that defendant was situated at the front door, allowing only certain people in his home while the location was surveilled. Defendant's criminal history is mostly traffic violation offenses. For the two offenses in the present matter defendant faces minimum mandatory time of 10 years. Although defendant obtained bail in state court where the charges originated, the standards applied by the two jurisdictions are different. So are the penalties. Defendant has family a number of whom were present in the courtroom. After the state charges arose, defendant has been residing with his mother and probably has employment to which he may return. At the state level a preliminary hearing occurred and probable cause was found against all defendant in this matter. In light of the serious nature of the offense, the court finds that there are no conditions or combination thereof that will reasonably assure the safety of the community.



Part III—Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

May 5, 2006

Signature of Judicial Officer

Mary Pat Thynge, Magistrate Judge

Name and Title of Judicial Officer

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).